

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Alex Starace	Team: Team # 8	CCRB Case #: 200814897	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 08/19/2008 10:39 PM	Location of Incident: 161st Street and Jerome Avenue	Precinct: 44	18 Mo. SOL 2/19/2010	EO SOL 2/19/2010	
Date/Time CV Reported Fri, 08/29/2008 10:07 AM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Fri, 08/29/2008 2:21 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Gregory Pekera	04870	919546	PBMN TF
2. POM Alin Mardale	01467	924128	BOMB SQ

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Peter Bolte	30919	933649	PBMN TF

Officer(s)	Allegation	Investigator Recommendation
A.SGT Gregory Pekera	Abuse: Sgt. Gregory Pekera stopped the car in which § 87(2)(b) was an occupant.	
B.POM Alin Mardale	Abuse: Alin Mardale searched the car in which § 87(2)(b) was an occupant.	

Synopsis

On August 29, 2008, § 87(2)(b) made an in-person complaint at the CCRB.

On August 19, 2008, at approximately 10:30 PM, at 161st Street and Jerome Avenue in the Bronx, § 87(2)(b) vehicle was pulled over by Sgt. Gregory Pekera of the Manhattan North Auto Larceny Unit (**Allegation A**). PO Alin Mardale, also of the Manhattan North Auto Larceny Unit, then searched § 87(2)(b) vehicle (**Allegation B**). PO Peter Bolte, of the Manhattan North Auto Larceny Unit, filled out a UF-250 for the incident. § 87(2)(b) was not arrested nor issued any summons.

§ 87(2)(g)

The case was reassigned to the writer after the resignation of Inv. N. Harmon.

Summary of Complaint

On August 19, 2008, at approximately 9:00 PM, § 87(2)(b) left § 87(2)(b) on 103rd Street in Manhattan. § 87(2)(b) dropped off a friend in Harlem and then drove across the bridge which connects 155th Street in Manhattan to 161st Street in the Bronx. As he exited the off-ramp, he was pulled over by an unmarked black Crown Victoria (**Allegation A**). § 87(2)(b) did not recall committing any moving violations prior to being stopped. Three officers, identified through investigation as Sgt. Pekera, PO Mardale and PO Bolte exited their vehicle and approached § 87(2)(b) vehicle.

Sgt. Pekera approached the drivers' side. PO Mardale and PO Bolte approached the passenger's side of the vehicle. Sgt. Pekera questioned § 87(2)(b) about his possible alcohol and marijuana use. § 87(2)(b) denied using either. Then Sgt. Pekera asked for and obtained § 87(2)(b) license, registration and car keys. § 87(2)(b) was asked to exit his vehicle and he was walked by Sgt. Pekera to the rear of his vehicle. Sgt. Pekera handed § 87(2)(b) keys to PO Mardale.

PO Mardale searched § 87(2)(b) vehicle (**Allegation B**), although § 87(2)(b) did not see the specifics of the search. § 87(2)(b) saw PO Mardale open and lean into the passenger's-side front and rear doors. When § 87(2)(b) later returned to his vehicle, the seats had been moved. After the search of the interior of the vehicle, Sgt. Pekera told § 87(2)(b) to sit in the driver's seat of his vehicle. PO Mardale used the keys he'd obtained to open the trunk of § 87(2)(b) vehicle. After the trunk was searched, Sgt. Pekera returned § 87(2)(b) keys. The officers then walked away. § 87(2)(b) waited in his vehicle. Eventually PO Bolte gave § 87(2)(b) his paperwork. The officers then left. § 87(2)(b) drove home.

Results of Investigation

Officer Statements:

Handwritten Stop and Frisk Report for § 87(2)(b) (Encl. 10A)

On August 19, 2008 at 10:30 PM, § 87(2)(b) was stopped at the intersection of the 155th Street Bridge and River Road. He was in a motor vehicle. He had been observed for five minutes and was suspected of Grand Larceny Auto. § 87(2)(b) was stopped for ten minutes and the circumstances leading to his stop were as follows: fits description, furtive movements, actions indicative of engaging in violent crime. § 87(2)(b) was frisked and then searched because a hard object was felt. Additional factors leading to the search were that the area had a high incidence of auto theft, the time of day corresponded with the suspected crime, § 87(2)(b) had been associating with persons known for criminal activity, § 87(2)(b) was giving evasive or false responses and § 87(2)(b) had changed directions at the sight of the officers. A cell phone was found as a result of the search, but no weapons were found. No contraband was found. PO Bolte filled out the report and Sgt. Pekera reviewed it.

Sgt. Gregory Pekera Interview Statement (Encl. 6A-D)

On July 21, 2009, at 8:53 AM, Sgt. Gregory Pekera was interviewed at the CCRB. Sgt. Pekera is a § 87(2)(b) -year-old white male. He is 5'9" tall and weighs 170 pounds. He has short brown hair and brown eyes. On August 19, 2008, Sgt. Pekera worked from 5:15 PM to 2:10 AM on August 20. He was in uniform. He was assigned to "Auto Larceny," and his partners were PO Peter Bolte and PO Alin Mardale. The officers were assigned to a dark blue Ford Crown Victoria.

Sgt. Pekera had no recollection of the event. When the incident was described to Sgt. Pekera, he still did not recall the event. When Sgt. Pekera was shown a photograph of § 87(2)(b) Sgt. Pekera stated that § 87(2)(b) did not look familiar. Sgt. Pekera stated that he did not recall any of the specific stops for the day in question. Sgt. Pekera did not recall stopping § 87(2)(b) vehicle, questioning him, or searching his vehicle.

PO Alin Mardale Interview Statement (Encl. 8A-B)

On July 29, 2009, at 8:58 AM, PO Alin Mardale was interviewed at the CCRB. PO Mardale is a § 87(2)(b) -year-old white male. He is 6'7" tall and weighs 300 pounds. He has brown hair and brown eyes. On August 19, 2008, PO Mardale worked from 6:00 PM to 2:00 AM on August 20. He was in uniform. He was assigned to regular patrol. PO Mardale did not recall who his partners were for the tour in question. The officers were assigned to an unmarked vehicle that was a Crown Victoria.

When the investigator described the incident to PO Mardale, PO Mardale still did not recall the incident. When shown a photograph of § 87(2)(b) PO Mardale stated that § 87(2)(b) did not look familiar. PO Mardale did not recall searching § 87(2)(b) vehicle. PO Mardale did not recall any other officer searching § 87(2)(b) vehicle.

PO Peter Bolte Memo Book (Encl. 7C-D)

2230 – 1 UF250 155 + River

PO Peter Bolte Interview Statement (Encl. 7A-B)

On July 21, 2009, at 9:50 AM, PO Peter Bolte was interviewed at the CCRB. PO Bolte is a § 87(2)(b) -year-old white male. He is 6'1" tall and weighs 205 pounds. He has brown hair and green eyes. On August 19, 2008, PO Bolte worked from 6:00 PM to 2:00 AM on August 20. He was in uniform. He was assigned to "Auto Larceny," and his partner was Sgt. Pekera. PO Bolte did not recall working with any other officers on the day in question. The officers were assigned to an unmarked vehicle.

PO Bolte had no independent recollection of the incident. When the incident was described to him, PO Bolte's memory was not refreshed. PO Bolte acknowledged that he did fill out the UF-250 for the incident; however, PO Bolte still did not remember the incident. PO Bolte was shown a photograph of § 87(2)(b) PO Bolte stated that § 87(2)(b) did not look familiar.

NYPD Documents**Roll Call (Encl. 9A-B)**

On August 19, 2008, Tour 3 for the Manhattan North Auto Larceny Unit, Sgt. Pekera was listed as the supervising officer. He was assigned to car number § 87(2)(b) PO Mardale and PO Bolte were assigned to Squad 1 of the Auto Larceny Unit. They were assigned to car number § 87(2)(b)

Stop, Question and Frisk Log (Encl. 11A)

On August 19, 2008, § 87(2)(b) was stopped at 155th Street and River Avenue. PO Bolte is listed as the officer who filled out a UF-250 for the incident.

Warrant Checks (Encl. 12A-J)

Sgt. Pekera performed a warrant check on § 87(2)(b) on August 19, 2008.

CCRB History of Subject Officers (Encl. 1A-B, 2A)

In twelve years of service, Sgt. Pekera has had four allegations substantiated against him. The first two of his substantiated allegations are from case #200701549, in which the allegations of “Vehicle Searched” and “Property Damaged” were substantiated. Sgt. Pekera received no disciplinary action for these substantiations. The second two of his substantiated charges are from case #200701549, in which the allegations of “Frisk” and “Search (of person)” were substantiated. Sgt. Pekera received no discipline for the former substantiation, but did receive command discipline for the latter.

In ten years of service, PO Mardale has had no allegations substantiated against him.

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Potential Lawsuits Filed (encl. 13A)

§ 87(2)(b) has filed no relevant lawsuits at this time.

Conclusions and Recommendations

Officer Identification

§ 87(2)(g)

§ 87(2)(b) described the officer who searched his car as a white male who was “taller than the other two officers.” Because PO Mardale stands at 6’7” tall, while Sgt. Pekera is 5’9” tall and PO Bolte is 6’1” tall, the investigation has identified PO Mardale as the officer who searched § 87(2)(b) vehicle.

§ 87(2)(g)

Undisputed Facts

§ 87(2)(g). The UF-250 for the event, filled out by PO Bolte and reviewed by Sgt. Pekera, confirmed that § 87(2)(b) was stopped and searched.

Disputed Facts

§ 87(2)(g)

Assessment of Evidence

§ 87(2)(g)

Allegation A: Sgt. Gregory Pekera stopped the car in which § 87(2)(b) was an occupant.

§ 87(2)(g)

Allegation B: PO Alin Mardale searched the car in which § 87(2)(b) was an occupant.

§ 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: